

20.01.2026

Item No.14

Ct. No.1

PG

WP.CT. 4 of 2026

Dr. Suresh Chandra Mazumder

Versus

Union of India & Ors.

Mr. Rabin Kr. Gorai
Ms. Ananya Neogifor the Petitioner

Mr. Subhankar Chakraborty
Mr. Rahul Sarkar
Ms. Sayani Gupta
Mr. Atindra Rai....for the respondent no. 1

PER, SUJOY PAUL, CJ.:

1. Parties are represented through their respective learned counsel.
2. Heard on admission.
3. The petitioner has questioned the legality, validity and propriety of order of Central Administrative Tribunal, Kolkata (for short '**tribunal**') dated 12.08.2024 passed in O.A. No. 1107 of 2024.
4. Learned counsel for petitioner submits that petitioner was recruited in the pay scale of Rs. 150-240 as a Trigonometrical Computer Trainee with entry level with Mathematics and Trigonometry as one of the subjects. The petitioner retired on attaining the age of superannuation on 31.01.2008. Thereafter, petitioner preferred series of representations for claiming that at the time of his initial appointment in 1972, his pay scale should have

been Rs. 425-700 in place of Rs. 150-240. Although certain Grievance Redressal Committees etc. considered the claim of the petitioner, the department never accepted the claim of Rs. 425-700 as pay scale on the date of initial appointment.

5. The petitioner then filed O.A. No. 1107 of 2024 before the tribunal. The tribunal rejected it by taking into account that the petitioner earlier preferred O.A. No. 204 of 2019 with certain prayers. In that case, the said O.A. was dismissed with observation that petitioner filed another O.A. 373 of 2002 before the tribunal. The tribunal opined that in view of principles flowing from Order II Rule 2 of CPC, the petition cannot be entertained and barred by principles of constructive *res judicata*. This rejection order is the subject-matter of challenge before us.
6. Learned counsel for petitioner submits that the petitioner, after his retirement was consistently raising his grievance for fixing of correct pay scale of Rs. 425-700 from the year 1972. This consistent representation and grievance falls within the ambit of continuous cause of action and therefore, the delay does not come in his way.

7. The relief of grant of pay scale of Rs. 425-700 was not subject matter of prayer in both the OAs, viz., O.A. 373 of 2002 and O.A. 204 of 2019 and hence question of *res judicata* does not arise.
8. The petitioner after rejection of his representation, filed the OA before the tribunal promptly. This order of tribunal is bad in law.
9. Counsel for department supported the impugned order.
10. On a specific query from the Bench, learned counsel for petitioner did not dispute that present petitioner indeed filed O.A. 373 of 2002 and O.A. 204 of 2019. The O.A. 373 of 2002 was dismissed in respect of certain reliefs. This O.A. was filed when petitioner was in employment because he retired in the year 2008. The grievance regarding claim of pay scale of Rs. 425-700 was available to the petitioner and known to him when he filed O.A. 373 of 2002. For the reasons best known to the petitioner, he did not pray for grant of pay scale of Rs. 425-700 in O.A. 373 of 2002. Similarly, in O.A. 204 of 2019, the prayer clause does not reflect that he was asking for this prayer of grant of pay scale of Rs. 425-700. The said petition was also not decided on merits.

11. The basic question is whether tribunal committed an error in invoking principles analogous to and flowing from Order II Rule 2 CPC. The basic principle flowing from Order II Rule 2 CPC is that if a grievance and relief is available to the petitioner and he did not pray for the said relief in the previous round of litigation, he cannot pray for the said relief in the second round of litigation. Any contrary view will lead to a situation, where there will be no end to the litigation.
12. The pivotal principle that if a petition is decided to be filed, any relief available and desired, must be added in one go in the first petition. There cannot be adjudication in easy installments. In this view of the matter, in our view, the tribunal has taken a plausible view, which does not warrant any interference.
13. The matter may be viewed from another angle. The petitioner was appointed way back on 01.05.1972. After his retirement in 2008, he started raising grievance for grant of pay scale of Rs. 425-700 in lieu of Rs. 150-240 on the initial post. The petitioner is trying to unsettle a settled thing, which cannot be permitted.
14. Apart from this, the claim of petitioner suffers from inordinate delay. A person, who was

appointed in 1972 and retired in 2008 cannot be permitted to wake up from his deep slumber after decades of appointment and say that at the time of his initial appointment, his pay scale should be 'X' and not 'Y'. If he had such grievance, it should have been raised with quite promptitude while remaining in employment.

15. In ***Union of India & Ors. vs. M.K. Sarkar*** reported in **(2010) 2 SCC 59**, the Supreme Court opined that if the tribunal/Court directs to decide a representation in a stale matter and consequent thereupon, the representation is decided by a speaking order, yet it will not give any fresh cause of action to the employee. The Court must examine the question of delay and laches even if a 'speaking order' is within statutory period of limitation. It was held as under:

"The order of the Tribunal allowing the first application of the respondent without examining the merits, and directing the appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. When a belated representation in regard to a "stale" or dead" issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the "dead" issue or time-barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation

issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches. Moreover, a court or tribunal, before directing “consideration” of a claim or representation should examine whether the claim or representation is with reference to a “live” issue or whether it is with reference to a “dead” or “stale” issue.”

(Emphasis Supplied)

16. We are unable to persuade ourselves with the line of argument that such a cause of action falls within the four corners of the recurring cause of action. Viewing from such angle, we are unable to entertain this petition.
17. Accordingly, admission is declined. Petition is **dismissed**.
18. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(SUJOY PAUL, C.J.)

(PARTHA SARATHI SEN, J.)